

In the United State Patent and Trademark Office

Appn. Number: US 10/599,868 national phase
International Appn Nr. : WO 2005/112041 / PCT/EP2005/051405
Applicants: Robert Desbrandes, Daniel L. Van Gent
Tittle : REMOTE COMMUNICATION METHOD AND DEVICE
UNSING NUCLEAR ISOMERS
Examiner: Johannes MONDT

Givarlais, France, 2010 January 09th

Answer to USPTO Office action mailed on December 22nd, 2009 and corrected amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir,
Madam,

Please find the corrected amendment with our apology. It is S-signed on page 5.
First we would like to thank you for the detailed evaluation of the application.
We have been reviewing the text of claim 1 (independent claim of Group I) in relation to the following:

- The Patent Cooperation Treaty and more precisely Rules 13.1 and Rules 13.2
- Your preliminary analysis concerning the absence of a technical relationship among those inventions involving one or more of the same or corresponding special technical features.

We are aware that applying an international treaty such as the PCT may be difficult because it is not as detailed as is the US laws and regulations, or the MPEP guidelines which are applicable to US application as regarding to the unity of invention.

Considering your action, we propose to amend the claims as listed below, in particular we would like to amend claim 1 to a “system of entangled samples” which might have to be considered as a structure rather than a composition of matter as it comprises two or more separate entangled samples containing some groups of excited isomer nuclides having distant quantum couplings.

In the Benett's patent the target 22 contains initially ^{100}Mo which is stable. Under irradiation by Bremsstrahlung at 10.6 MeV some ^{99}Nb and $^{99\text{m}}\text{Nb}$ are produced, and they decay in ^{99}Mo , which decays in ^{99}Tc . Thus for a short time, target 22 contains $^{99\text{m}}\text{Nb}$ probably inherently entangled locally within the single sample disclosed as target 22 which is a solid in a metallic form. However, $^{99\text{m}}\text{Nb}$ decays in 2.6 minutes while the system of entangled samples comprising $^{93\text{m}}\text{Nb}$ in claim 2 decays in 16.13 years.

Referring to §2114 of the MPEP page 2100-53 : “Even if the prior art device performs all the functions recited in the claim, **the prior art cannot anticipate the claim if there is any structural difference**. It should be noted, however, that means plus function limitations are met by structures which are equivalent to the corresponding structures recited in the specification. In re Ruskin, 347 F.2d 843, 146 USPQ 211 (CCPA 1965) as implicitly modified by In re Donaldson, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). **See also In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999) (The claims were drawn to a disposable diaper having three fastening elements. The reference disclosed two fastening elements that could perform the same function as the three fastening elements in the claims. The court construed the claims to require three separate elements and held that the reference did not disclose a separate third fastening element, either expressly or inherently.)**.”

[bold and underlined presentation of the text added by us]

Hence in the particular instance of a “system of entangled samples” comprising two or more separate samples having distant quantum coupling between some excited isomer nuclides, it follows that the inherent description of the excited isomer nuclides within a single sample without distant quantum coupling can not be considered prior art to the

system of entangled samples as the Federal Circuit Court clearly states that a two fastening elements' diaper is not prior art to a three separate elements' diaper. For these reasons particularly pointing out differences of interpretation in how the claimed system of entangled samples should be construed, we would like to proceed with the following election **with traverse**:

- Election of group III, claims 7-11, 19 and 21, drawn to a process of use of said system of entangled samples as amended.
- Election of the species Indium (¹¹⁵In49m).

We believe that new dependent claims of claim 7 to a number of species also pertain to group III: i.e. claims 22-31.

Claims that can be read over Indium (¹¹⁵In49m) are claims 1-22, 25, 30, 31, 34, 39 and 42. Other claims are aimed at other species.

Please note that our election does not carry any abandonment of substance within the application and do not indicate a preferred species nor a preferred embodiment.

We would like to amend the application as follows:

ABSTRACT: Unchanged.

SPECIFICATION: Amendment comprises the insertion of the matter of the English translation of the original claims from the international application in the specification as the original claims comprises subject matter in support of the current claims. The specification amendment begins on page 6. It is respectfully asked, if allowed by the USPTO practice, to update the specification before applying the election requirement so that, should there be a need to apply for a divisional, the specification be already with the complete matter in order to alleviate future processing.

DRAWING: no amendment.

CLAIMS: Amendment begins on page 9 and the clean text version begins on page 19.